

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address: **ARCO Environmental Remediation LLC (AERL)
317 Anaconda Rd
Butte MT 59701-8805**
2. Type of action: **Application to Change a Water Right No. 30013724-76G
(Statements of Claim Nos. 32356; 30005815; 30005818-76G)**
3. Water source name: **Warm Springs Creek & Clark Fork River**
4. Location affected by action: **Reaches of Warm Springs Creek beginning in the SESESE of Sec 31, Twp 5N, Rge 10W, Deer Lodge County and ending in the Clark Fork River at the Gold Creek gaging station located in the SENWSW of Sec 25, Twp 10N, Rge 11W, Powell County.**
5. Narrative summary of the proposed project, purpose, action to be taken, and objectives: **This application proposes to add an alternative purpose and alternative places of use to three historic existing water rights. The proposed alternative purpose is instream flows to enhance the fishery. The proposed alternative place of use begins in the SESESE of Sec 31, Twp 5N, Rge 10W, Deer Lodge County and ends at the Gold Creek gaging station located in the SENWSW of Sec 25, Twp 10N, Rge 11W, Powell County.**

The maximum flow rate and volume to be used for instream flows to benefit the fishery resource would be 4.85 cfs up to 1248.39 acre-feet per year.

The instream flows would be administered at the discretion of AERL if they elect to use the water rights for the protection of the fishery. The applicant has indicated that no acres will be removed from production to provide instream flows. There are dry-up acres identified in a special warranty deed. There is also a detailed chart showing the irrigation schedule with dry and rest times. The dry and rest times correspond with the typical time periods that hay is harvested from fields in the area. These documents can be viewed in the application file or exhibits submitted with the application.

The applicant proposes to take numerous measurements at specific sites on Warm Springs Creek and the Clark Fork River. One of the lower gaging sites is the Clark Fork gage at Deer Lodge (12324200) where the mean August flow is 80 cfs and low recorded daily mean flow was 22 cfs. The last downstream gage is the Clark Fork gage at Gold Creek (12324680 where the mean August flow is 200 cfs and the low recorded daily mean flow was 55 cfs. The applicant proposes to add the sites on as conditions to the authorization if issued. The exact measuring locations can be found in the application file.

The DNRC shall issue an Authorization to Change if the applicant proves the criteria in 85-2-402, MCA are met.

Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)

MFISH – Montana Dept of Fish, Wildlife & Parks (MFWP)
DEQ – Montana 303(d) List
USGS – Stream flow records

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

Determination: **No significant impact.**

Warm Springs Creek in Deer Lodge County is not considered dewatered by MFWP. The Clark Fork River in Deer Lodge County is considered periodically dewatered from river mile 328.8 to river mile 336.0. The Clark Fork River in Powell County is considered chronically from mile 283.9 to river mile 326.5. Chronic dewatering is a significant problem in virtually all years: periodic dewatering is a significant problem only in drought or water-short years.

This proposed project would benefit the source during the times water is not being diverted for irrigation, as long as an effective management and measurement plan is in place to protect the instream flow.

Water quality - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

Determination: **Warm Springs Creek for the area of interest is not considered water quality impaired. The Clark Fork River is considered water quality impaired in several of the areas listed in the application.**

The proposed project would benefit the source during the time water is not being diverted for irrigation. This project would benefit instream flows to enhance the fishery.

Groundwater - Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.

Determination: **Not applicable – surface water change**

DIVERSION WORKS - Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.

Determination: **No significant impact. No means of diversion or construction are involved in this proposed change. At AERL's discretion water would be left in the source instead of being diverted for irrigation. This proposed project would benefit instream flows to enhance the fishery.**

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."

Determination: **No significant impact.**
The proposed project will not have any impact on threatened or endangered species or species of special concern, wildlife, plants or aquatic species. It will not create a barrier to the migration or movement of fish or wildlife. This proposed project would benefit instream flows to enhance the fishery at times when water is being left in the source.

Wetlands - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

Determination: **Not applicable – no wetlands involved in this project.**

Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

Determination: **Not applicable – no ponds involved in this project.**

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

Determination: **No significant impact.**

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.

Determination: **No significant impact.**

AIR QUALITY - Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.

Determination: **No significant impact.**

HISTORICAL AND ARCHEOLOGICAL SITES - Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.

Determination: **No significant impact. No significant impact.**

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - Assess any other impacts on environmental resources of land, water and energy not already addressed.

Determination: **No significant impact.**

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

Determination: **No significant impact.**

The proposed project is not inconsistent with any locally adopted environmental plans and goals. The proposed project would benefit instream flows to enhance the fishery at times when water is being left in the source.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.

Determination: **No significant impact.**

The proposed project will not impact access to or the quality of recreational or wilderness activities. The proposed project would benefit instream flows to enhance the fishery at times when water is being left in the source.

HUMAN HEALTH - Assess whether the proposed project impacts on human health.

Determination: **No significant impact.**

PRIVATE PROPERTY - Assess whether there are any government regulatory impacts on private property rights.

Yes ___ No X.

OTHER HUMAN ENVIRONMENTAL ISSUES - For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.

Impacts on:

- (a) Cultural uniqueness and diversity? **No significant impact.**
- (b) Local and state tax base and tax revenues? **No significant impact.**
- (c) Existing land uses? **No significant impact. The land use will still be primarily irrigation. At times when irrigation is not being carried out the right may be left instream to benefit the fishery. This will be at the discretion of AERL.**
- (d) Quantity and distribution of employment? **No significant impact.**
- (e) Distribution and density of population and housing? **No significant impact.**
- (f) Demands for government services? **No significant impact.**

- (g) Industrial and commercial activity? **No significant impact.**
- (h) Utilities? **No significant impact.**
- (i) Transportation? **No significant impact.**
- (j) Safety? **No significant impact.**
- (k) Other appropriate social and economic circumstances? **No significant impact.**

2. Secondary and cumulative impacts on the physical environment and human population:

Secondary Impacts: **No secondary impacts have been identified as a result of this action at this time.**

Cumulative Impacts: **No cumulative impacts have been identified as a result of this action at this time. If the water that was left in the stream during non-irrigation periods such as haying is committed to instream flow, the remaining irrigators will have less water available**

3. Describe any mitigation/stipulation measures:

The application proposes to take numerous measurements at specific sites on Warm Springs Creek and the Clark Fork River. The application proposes to add the sites on as conditions to the authorization. The exact measuring locations can be found in the application file.

4. Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:

The applicant would agree to cease all irrigation and dry up the acres permanently. The entire amount of flow rate and volume listed on the application would be instream from April 1 to September 30 of each year during the specific time period.

The applicant would agree to cease all irrigation during the critical months when the flows are low in Warm Springs Creek and the Clark Fork River.

The no action alternative would maintain the status quo.

PART III. Conclusion

1. Preferred Alternative: **The applicant would agree to cease all irrigation and dry up the acres permanently. The entire amount of flow rate and volume listed on the application would be instream from April 1 to September 30 of each year during the specific time period.**

2. Comments and Responses: **There have been no comments or responses to this action at this time.**

3. Finding:

Yes ___ No **X** Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: **An EA is the appropriate level of analysis for this action. There were no significant impacts identified, therefore an EIS is not required.**

Name of person(s) responsible for preparation of EA:

Name: **Kathy Arndt**

Title: **Water Resources Specialist**

Date: **February 16, 2007**